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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

THE VILLAGE RECORDER, a California
corporation,

Plaintiff,

v.

THE VILLAGE MUSIC SCHOOL, INC., a
Delaware Corporation, and DOES 1-10.

Defendants.

Case No.: 2:23-cv-5548

COMPLAINT FOR FEDERAL
TRADEMARK INFRINGEMENT;
STATE TRADEMARK
INFRINGEMENT; FEDERAL UNFAIR
COMPETITION; STATE UNFAIR
COMPETITION; FEDERAL TRADEMARK
DILUTION; AND STATE TRADEMARK
DILUTION

Plaintiff THE VILLAGE RECORDER (hereinafter referred to as "Plaintiff")
complains and alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Lanham Act, as amended (15 U.S.C. §§
1114, 1116, 1117, 1125(a), and 1125(c)); California Business & Professions Code

1 §§ 14320, 14330, 17200, *et seq.*, and 17500; and California common law.
2 Jurisdiction is proper under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and
3 1338(b). Jurisdiction is also proper pursuant to this Court's supplemental
4 jurisdiction as provided in 28 U.S.C. § 1367 in that the state law claims alleged
5 herein are so related to the federal claims that they form part of the same case or
6 controversy under Article III of the United States Constitution.
7

8
9 2. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)
10 and 1391(c) in that Defendants transact business in this Judicial District and a
11 substantial part of the events or omissions giving rise to the claims herein occurred
12 within this Judicial District.
13

14 THE PARTIES

15
16 3. Plaintiff THE VILLAGE RECORDER (“Plaintiff”) is a California
17 corporation, having its principal place of business located at 1616 Butler Avenue,
18 Los Angeles, CA 90025. Plaintiff is the exclusive owner of the trademarks which
19 form the basis of this action.
20

21 4. a. Plaintiff is informed and believes, and on such basis alleges, that
22 Defendant THE VILLAGE MUSIC SCHOOL, INC. (hereinafter individually
23 “Defendant”) is a Delaware Corporation, having a principal place of business at 123
24 Kent Road S., Cornwell Bridge, Connecticut, and is soliciting business nationwide
25 online, including this Judicial District and is likewise causing damages to the
26 specific business complained of in this complaint in California, in this Judicial
27
28

1 District.

2 b. Plaintiff is ignorant of the true names and capacities of Defendants sued
3 herein as DOES 1 - 10, inclusive, and therefore sue said Defendants by such
4 fictitious names. Plaintiff will amend this Complaint to allege said Defendants'
5 true names and capacities when ascertained.
6

7
8 c. Plaintiff is informed and believes, and on such basis alleges that each of
9 the aforementioned Defendants acted at all times alleged herein as the agent,
10 employee, representative, and/or alter ego of the other Defendants; is responsible in
11 some manner for the occurrences alleged herein; and caused the injuries alleged
12 herein.
13

14
15 GENERAL ALLEGATIONS
16 PLAINTIFF AND THE VILLAGE MARKS

17 5. Plaintiff owners of the world renowned marks: THE VILLAGE, THE
18 VILLAGE RECORDER, and VILLAGE STUDIOS. The Village Recorder, owns
19 numerous federal registrations for the VILLAGE marks and variations thereof for
20 use in connection with various goods and services, most notably for its recording
21 studio services and online streaming of audio and video musical performances, with
22 THE VILLAGE Marks prominently placed on all sound recordings recorded at the
23 famous studios, including substantial film, television and voice over work, and use
24 of THE VILLAGE mark .
25

26
27 6. Plaintiff is also well known for its educational and teaching services
28

1 for decades under its VILLAGE brand, including hundreds of classes, seminars,
2 courses and workshops. Plaintiff has instructed under THE VILLAGE name for
3 decades, including instruction partnerships at many of the top music schools in the
4 nation, including USC Thornton School of Music, UCLA Herb Albert School of
5 Music and Berklee College of Music to name a few. The following are examples of
6 links to online classes, including its “Learning Lab” under the Village brand and its
7 USC partnership:
8

9
10 <https://music.usc.edu/spotlights/lessons-in-mastering-the-recording-studio/>

11
12 <https://www.lynnearls.com/learninglab>

13 7. Plaintiff’s VILLAGE Marks are also used and well-known worldwide
14 as the mark is prominently displayed on the albums of the most famous recording
15 artists of the last five decades. It is the “go to” recording studio for world renowned
16 recording artists, musicians and television and movie producers and the products of
17 its recording sessions are distributed worldwide under the VILLAGE trademark.
18 Plaintiff’s Marks are famous worldwide and this fame is noted in numerous articles
19 regarding The Village.
20

21
22 8. Plaintiff utilizes its VILLAGE and VILLAGE STUDIOS trademarks
23 in various combinations on sound recordings, online, in social media, in the press
24 and in advertising to identify them as originating from Plaintiff. Plaintiff’s
25 VILLAGE STUDIOS marks are extremely well-known in the United States,
26 European Union, Canada, Mexico and worldwide. This high level of name
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1 recognition among the public gives these marks lucrative appeal.

2 9. In addition to the longstanding, international use and goodwill
3 mentioned above, Plaintiff has registered its VILLAGE Marks at the United States
4 Federal level, in California, Mexico and Canada. Presently, Plaintiff is the owner
5 of the following U.S. Federally Registered trademarks, among other federal and
6 international registrations: Nos. 6703693 for the mark THE VILLAGE; 3,665,377
7 for the mark VILLAGE STUDIOS; 2,071,311 for the mark THE VILLAGE;
8 2,478,744 for the mark THE VILLAGE; and No. 4,516,887 for THE VILLAGE.
9 Plaintiff's above referenced trademarks are hereinafter collectively referred to as
10 "THE VILLAGE Marks."
11

12 10. Petitioner has been using said marks since at least 1968 and has been
13 using said marks in interstate commerce since at least 1968 for entertainment
14 services, recording studio services, sound recordings, and other broadcasting and
15 multi-media uses, and is famous in the music industry.
16

17 11. Thousands of albums by top selling recording artists, voice overs,
18 commercials and recordings for film and televisions shows have been recorded at
19 the world famous Village recording studios and sold worldwide and also live
20 recordings broadcast on the radio and on the Internet live and for download.
21 Plaintiff enjoys substantial success in the market for these goods and services and
22 has acquired extraordinary goodwill in its marks. In addition, as a result of
23 Plaintiff's efforts through advertising, promotions, sales, and customer service, as
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28

1 well as favorable recommendations by Plaintiff's clients and fans, Plaintiff's
2 VILLAGE STUDIOS products have achieved enormous popularity among the
3 public. As a result of these efforts and Plaintiff's exclusive use of THE VILLAGE
4 Marks, THE VILLAGE Marks have acquired substantial goodwill and secondary
5 meaning for a long period of time, serving as an indicator of Plaintiff as the source
6 of origin of its products.
7

8
9 12. By virtue of THE VILLAGE Marks' inherent distinctiveness and
10 acquired secondary meaning; the long duration and international usage exclusively
11 by Plaintiff of THE VILLAGE Marks for education, entertainment and recording
12 studio services; Plaintiff's extensive advertising and publicity of THE VILLAGE
13 Marks; and the extremely high degree of recognition of the mark in the trading
14 areas and channels of trade used by Plaintiff; THE VILLAGE Marks, and each of
15 them, are famous under 15 U.S.C. § 1125(c)(1) of the Federal Trademark Dilution
16 Act of 1995.
17
18

19
20 **Defendants' Unlawful Conduct: Trademark Infringement,**

21 **Unfair Competition and Trademark Dilution**

22
23 13. Plaintiff is informed and believes, and on such basis alleges, that
24 Defendant markets and sells educational services, namely, conducting online and
25 telephonic instruction and courses in the field music, under the identical name THE
26 VILLAGE with only the generic terms MUSIC and SCHOOL added thereto.
27

28 14. Plaintiff is informed and believes, and on such basis alleges, that

1 Defendant has made unauthorized use of THE VILLAGE mark on the Internet,
2 where consumers are likely to confuse its services with Plaintiff's marketed and
3 sold right alongside one another and in search results resulting in consumer
4 confusion. Defendant has registered the infringing mark THE VILLAGE MUSIC
5 SCHOOL which was assigned Registration No. 6689856.
6

7
8 15. Defendant has no right, license or other authority from Plaintiff to use
9 any of THE VILLAGE Marks for any purpose.

10 16. Plaintiff is informed and believes, and on such basis alleges, that
11 Defendant knew of THE VILLAGE Marks and that the same were owned by
12 someone other than themselves; knew that THE VILLAGE Marks were distinctive
13 and famous; and knew that Defendant had not received any authority from Plaintiff
14 to use THE VILLAGE Marks or any other marks confusingly similar thereto, for
15 any purposes.
16

17
18 17. Defendant's unlawful activities result in irreparable injury and damage
19 to Plaintiff's reputation.
20

21 18. Additionally, Defendant's unlawful activities injure the public by
22 depriving the public of the right to be free of confusion in the marketplace.
23

24 19. Plaintiff is informed and believes, and on such basis alleges, that
25 Defendant has deliberately, willfully, and maliciously used THE VILLAGE Marks
26 in order to trade on the goodwill that Plaintiff has attained in THE VILLAGE
27 Marks, to dilute THE VILLAGE Marks and to confuse the public into believing
28

1 that Defendant's unauthorized use is licensed or authorized by Plaintiff.

2 FIRST CLAIM FOR RELIEF

3
4 (Federal Trademark Infringement)

5 20. This claim for relief arises under 15 U.S.C. § 1114 and is alleged
6 against all Defendants.

7
8 21. Plaintiff reallege the allegations in paragraphs 1 through 19 of this
9 Complaint as though fully set forth herein.

10 22. Plaintiff is the owner of the Federally Registered trademarks, including
11 THE VILLAGE Marks set forth above. These trademarks are inherently distinctive
12 and have, in addition, acquired substantial goodwill and secondary meaning.

13
14 23. Plaintiff is informed and believes, and on such basis alleges, that
15 Defendants are using marks confusingly identical to THE VILLAGE Marks.

16
17 24. Defendants have not been authorized by Plaintiff to use any of THE
18 VILLAGE Marks or any mark similar thereto, for any purpose whatsoever,
19 including the use of THE VILLAGE Marks in connection with educational
20 services, namely, conducting on line and telephonic instruction and courses in the
21 field music.

22
23 25. Defendants' unauthorized use of THE VILLAGE Marks or any mark
24 similar thereto is likely to confuse the public as to the source, origin, sponsorship
25 and affiliation of the services sold by Defendants.

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28 26. Defendants' unauthorized use is likely leading the public to believe

1 Defendants' services are sponsored by Plaintiff, or with the permission, approval or
2 endorsement of Plaintiff.

3
4 27. Defendants' unlawful activities injure the public by depriving the
5 public of the right to be free from confusion in the marketplace.

6
7 28. By reason of this unauthorized use of THE VILLAGE Marks,
8 Defendants have unlawfully and wrongfully derived, and will continue to
9 unlawfully and wrongfully derive, income and profits from these infringing acts,
10 and Plaintiff has sustained, and will continue to sustain, substantial injury, loss and
11 damage in an amount according to proof.

12
13 29. Plaintiff is informed and believes, and on such basis alleges, that this
14 infringing use by Defendants has been deliberate and willful, entitling Plaintiff to
15 increased damages and attorney's fees.

16
17 30. Plaintiff is informed and believes, and on such basis alleges, unless
18 restrained and enjoined by this Court, Defendants will continue to infringe
19 Plaintiff's trademark rights and cause confusion, deception and mistake among the
20 trade and the consuming public as to the source and sponsorship of the goods and
21 services provided and sold by Defendants.

22
23
24 31. Defendants' activities have caused Plaintiff irreparable injury and
25 unless Defendants' acts are immediately and permanently enjoined, Defendants will
26 continue to use THE VILLAGE Marks, thus continuing to infringe upon Plaintiff's
27 rights.
28

1 injury, loss and damage in an amount according to proof.

2 39. Plaintiff is informed and believes, and on such basis alleges, that this
3
4 infringing use by Defendants has been deliberate and willful, entitling Plaintiff to
5 increased damages and attorney's fees.

6 40. Plaintiff is informed and believes, and on such basis alleges, unless
7
8 restrained and enjoined by this Court, Defendants will continue to infringe
9 Plaintiff's trademark rights and cause confusion, deception and mistake among the
10 trade and the consuming public as to the source of the goods sold by Defendants.

11 41. Defendants' activities have caused Plaintiff irreparable injury and
12
13 unless Defendants' acts are immediately and permanently enjoined, Plaintiff will
14 continue to suffer irreparable harm and injury.

15 42. Plaintiff has no adequate remedy at law.

16
17 THIRD CLAIM FOR RELIEF

18 (Federal Unfair Competition)

19
20 43. This claim for relief arises under 15 U.S.C. § 1125(a) and is alleged
21 against all Defendants.

22 44. Plaintiff realleges the allegations in paragraphs 34 through 42 of this
23
24 Complaint as though fully set forth herein.

25 45. As alleged previously, Plaintiff is the owner of THE VILLAGE
26
27 Marks, which trademarks have acquired substantial goodwill and secondary
28 meaning.

1 46. As also alleged above, Defendants have used marks confusingly
2 similar to THE VILLAGE Marks in connection with Defendants' educational
3 services without permission or authority from Plaintiff.
4

5 47. Defendants have not obtained from Plaintiff any license or other
6 permission to use any of THE VILLAGE Marks or marks confusingly similar
7 thereto for any purpose whatsoever.
8

9 48. Defendants' unauthorized use and registration of marks confusingly
10 similar to THE VILLAGE Marks, constitutes a false designation of origin and false
11 or misleading representation of fact, which is likely to cause confusion, mistake, or
12 to deceive customers and potential customers as to the source, origin, sponsorship
13 and affiliation of the goods sold by Defendants.
14

15 49. Defendants' above-mentioned use and registration of THE VILLAGE
16 Marks, and marks confusingly similar thereto constitute violations of Section 43(a)
17 of the Lanham Act (15 U.S.C. § 1125(a)).
18

19 50. Defendants have unlawfully and wrongfully derived, and will continue
20 to unlawfully and wrongfully derive, income and profits from these acts of false
21 designation of origin and false representation, and Plaintiff has sustained, and will
22 continue to sustain, substantial injury, loss and damage in an amount to be proven
23 at trial.
24

25 51. Defendants' activities have caused Plaintiff irreparable injury and
26 unless Defendants' acts are immediately and permanently enjoined, Plaintiff will
27
28

1 continue to suffer irreparable harm and injury.

2 52. Plaintiff has no adequate remedy at law.

3
4 FOURTH CLAIM FOR RELIEF

5 (California Unfair Competition)

6 53. This claim for relief arises under the California Business &
7 Professions Code §§17200, *et seq.* and 17500 and is alleged against all Defendants.

8 54. Plaintiff realleges the allegations in paragraphs 44 through 52 of this
9 Complaint as though fully set forth herein.

10 55. Defendants' conduct is unfair and deceptive behavior pursued in the
11 course of their businesses in that their actions were likely to deceive present and
12 potential customers of Defendants and of Plaintiff.

13 56. Defendants have willfully decided to unfairly compete with Plaintiff
14 by misappropriating Plaintiff's proprietary Marks by unlawfully using marks
15 confusingly similar to Plaintiff's proprietary marks in an attempt to trade on
16 Plaintiff's goodwill and confuse consumers as to the source, origin, sponsorship
17 and affiliation of the goods and services sold by Defendants.

18 57. Defendants have unlawfully derived income and profits from their
19 activities and will continue to so derive income and profits from their acts of unfair
20 competition, and Plaintiff has sustained, and will continue to sustain, substantial
21 injury, loss and damage in an amount according to proof.

22 58. Defendants' activities have caused Plaintiff irreparable injury and
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1 unless Defendants' acts are immediately and permanently enjoined, Plaintiff will
2 continue to suffer irreparable harm and injury.

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4 59. Plaintiff has no adequate remedy at law.

5 FIFTH CLAIM FOR RELIEF

6 (Federal Trademark Dilution)

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8 60. This claim for relief arises under 15 U.S.C. §1125(c) and is alleged
9 against all Defendants.

10 61. Plaintiff realleges the allegations in paragraphs 54 through 59 of this
11 Complaint as though fully set forth herein.

12
13 62. Plaintiff is the owner of THE VILLAGE Marks, set forth above.
14 These trademarks are inherently distinctive, have acquired substantial goodwill and
15 secondary meaning, and are famous within the meaning of 15 U.S.C. § 1125(c)(1)
16 of the Federal Trademark Dilution Act of 1995.

17
18 63. Defendants are using marks confusingly similar to THE VILLAGE
19 Marks without authorization from Plaintiff in connection with music education
20 services.

21
22 64. Defendants have not been authorized by Plaintiff to use any of THE
23 VILLAGE Marks or any marks confusingly similar thereto for any purpose
24 whatsoever, including the sale of music education services.

25
26 65. Defendants' use of marks confusingly similar to THE VILLAGE
27 Marks dilutes the marks by lessening their capacity to identify and distinguish
28

1 Plaintiff's goods in the stream of commerce.

2 66. Defendants' use of marks confusingly similar to THE VILLAGE
3
4 Marks occurred only after the marks had become famous.

5 67. By reason of this unauthorized use of marks confusingly similar to
6 THE VILLAGE Marks, Defendants have unlawfully and wrongfully derived, and
7
8 will continue to unlawfully and wrongfully derive, income and profits from these
9 diluting acts, and Plaintiff has sustained, and will continue to sustain, substantial
10 injury, loss and damage in an amount according to proof.

11
12 68. Plaintiff is informed and believes, and on such basis alleges that,
13 through this use, Defendants deliberately and willfully intended to trade on the
14 goodwill that Plaintiff has attained in THE VILLAGE Marks and to cause dilution
15 of THE VILLAGE Marks, entitling Plaintiff to increased damages and attorney's
16 fees.
17

18 69. Plaintiff is informed and believes, and on such basis alleges that,
19 unless restrained and enjoined by this Court, Defendants will continue to use marks
20 confusingly similar to THE VILLAGE Marks, thus continuing to cause the dilution
21 of THE VILLAGE Marks.
22

23 70. Defendants' activities have caused Plaintiff irreparable injury and
24 unless Defendants' acts are immediately and permanently enjoined, Plaintiff will
25 continue to suffer irreparable harm and injury.
26
27

28 71. Plaintiff has no adequate remedy at law.

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2
3 SIXTH CLAIM OF RELIEF

4 (California Trademark Dilution)

5 72. This claim for relief arises under California Business & Professions
6 Code § 14330, and is alleged against all Defendants.
7

8 73. Plaintiff realleges the allegations of paragraphs 61 through 71 of this
9 Complaint as though fully set forth herein.

10 74. Plaintiff is the owner of common law trademarks, trademarks
11 registered in the state of California, and federally registered trademarks, including
12 THE VILLAGE Marks set forth above. These trademarks are inherently distinctive
13 and have, in addition, acquired substantial goodwill and secondary meaning and
14 well known and famous.
15

16 75. Plaintiff is informed and believes, and on such basis alleges that
17 Defendants, with full knowledge of the public recognition of THE VILLAGE
18 Marks, have used marks confusingly similar to THE VILLAGE Marks on their
19 services without authorization from Plaintiff after Plaintiff's marks became well
20 known and famous.
21

22 76. The aforementioned actions of Defendants have caused, and are likely
23 to continue to cause, injury to Plaintiff's business and professional reputation and to
24 dilute the distinctive quality of THE VILLAGE Marks in violation of Section
25 14330 of the California Business & Professions Code.
26
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1 77. Defendants' activities have caused Plaintiff irreparable injury and
2 unless Defendants' acts are immediately and permanently enjoined, Plaintiff will
3 continue to suffer irreparable harm and injury.
4

5 78. Plaintiff has no adequate remedy at law.

6 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:
7

8 1. That the Court issue a preliminary injunction restraining, enjoining and
9 prohibiting Defendants, and their officers, agents, employees and attorneys, and any
10 person in active concert or participation with them or who are acting under their
11 direction, and each of them, from the following:
12

13 (a) diluting THE VILLAGE Marks and damaging Plaintiff's goodwill,
14 reputation and business related thereto,
15

16 (b) using THE VILLAGE Marks in any manner, and from causing,
17 contributing to or participating in, the unauthorized display and/or distribution of
18 THE VILLAGE Marks to the public in connection with any service or product,
19

20 (c) engaging in conduct which tends falsely to represent or is likely to
21 confuse, mislead or deceive members of the public,
22

23 (d) Otherwise unfairly competing with Plaintiff in any manner, and

24 (e) Continuing to perform in any manner whatsoever any of the other acts
25 complained of in this Complaint;
26

27 2. That this Court issue a permanent injunction, prohibiting Defendants
28 from directly or indirectly diluting or infringing THE VILLAGE Marks, and in any

1 manner unfairly competing with Plaintiff; and from inducing, or contributing to or
2 participating in any such acts referred to in paragraph 1 of this prayer;
3

4 3. That the Court award Plaintiff its damages from Defendants including
5 recovery of any compensatory damages sustained by Plaintiff as a result of
6 Defendants' diluting, infringing and/or tortuous activities described herein;
7

8 4. That the Court order Defendants to account for all gains, profits and
9 advances derived by Defendants from the acts complained of, together with
10 appropriate interest thereon;
11

12 5. That the Court further award Plaintiff an increase in damages in an
13 amount found or assessed as a result of willful acts of trademark dilution, trademark
14 infringement, and unfair competition under 15 U.S.C. § 1117;
15

16 6. That the Court cancel Registration No. 6689856 for THE VILLAGE
17 MUSIC SCHOOL;
18

19 7. That Defendants pay Plaintiff's costs and disbursements in this action,
20 together with reasonable attorneys' fees;

21 8. That Plaintiff be awarded punitive damages; and
22

23 9. That Plaintiff have such other and further relief as the Court may deem
24 just and proper.
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1 DATED: July 10, 2023

**FISCHBACH, PERLSTEIN,
LIEBERMAN & ALMOND, LLP**

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4
5 By: /Michael P. Martin/

Michael P. Martin
Attorneys for Plaintiff, Amcor
Industries, Inc.

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